
STATUTORY INSTRUMENTS

2015 No. 1592

**The Dogger Bank Teesside A and
B Offshore Wind Farm Order 2015**

PART 6

Miscellaneous and general

Railway and navigation undertakings

35.—(1) Subject to the provisions of this article, the undertaker must not under article 14 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act)—

- (a) is under the control or management of, or is maintainable by, a railway undertaker or a navigation authority; or
- (b) forms part of a level crossing belonging to such an undertaker or authority or to any other person,

except with the consent of the undertaker or authority or, as the case may be, person to whom the level crossing belongs.

(2) Paragraph (1) does not apply to the carrying out under this Order of emergency works within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as specified by the person giving it, but must not be unreasonably withheld.

(4) In this article, “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.

Trees subject to tree preservation orders

36.—(1) The undertaker may fell or lop any tree within the Order limits that is subject to a tree preservation order, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act⁽¹⁾ (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

⁽¹⁾ Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part I of the 1961 Act.

(5) In this article, "tree preservation order" has the same meaning as in section 198 of the 1990 Act.

Operational land for purposes of Town and Country Planning Act 1990

37. Development consent granted by this Order must be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees and removal of hedgerows

38.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The undertaker may remove any hedgerow within the Order limits that may be required to be removed for the purposes of carrying out the authorised development.

Deemed licences under Marine and Coastal Access Act 2009

39. The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence—

- (a) Marine Licence 1 (set out in Schedule 8);
- (b) Marine Licence 2 (set out in Schedule 9);
- (c) Marine Licence 3 (set out in Schedule 10);
- (d) Marine Licence 4 (set out in Schedule 11).

Saving for Trinity House

40. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to take, use, enter on or in any manner interfere with any land or rights of any description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—
 - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

- (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
 - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in section 227 of the 2008 Act) that is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined that section).
- (2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Certification of plans and documents, etc.

42.—(1) The undertaker must, as soon as practicable after this Order is made, submit to the Secretary of State copies of the following—

- (a) the book of reference, dated 27th January 2015 (REP-497(2));
- (b) the environmental statement, dated March 2014 (APP-065 to APP-162);
- (c) the offshore order limits and grid co-ordinates plan, dated 22nd January 2015 (REP-517);
- (d) the onshore order limits and grid co-ordinates plan, dated 22nd September 2015 (REP-516);
- (e) the offshore and onshore land plans—
 - (i) offshore land plans, dated 22nd January 2015 (REP-513);
 - (ii) onshore land plans—
 - (aa) sheet 1, dated August 2014 (REP-520);
 - (bb) sheet 2, dated February 2014 (REP-521);
 - (cc) sheet 3, dated August 2014 (REP-522);
 - (dd) sheet 4, dated September 2014 (REP-523);
 - (ee) sheet 5, dated September 2014 (REP-524);
 - (ff) sheet 6, dated September 2014 (REP-525);
- (f) the onshore special category land plan (REP-526);
- (g) the offshore works plans (sheets 1 to 9), dated 22nd January 2015 (REP-512);
- (h) the onshore works plans—
 - (i) key plan, dated 20th March 2014 (APP-014);
 - (ii) sheets 1 to 6, dated 26th January 2015 (REP-518 and REP-519);
- (i) the outline code of construction practice, dated 27th January 2015 (REP-493);
- (j) the draft fisheries liaison plan, dated 8th December 2015 (REP-436);
- (k) the offshore in principle monitoring plan, dated 27th January 2015 (REP-492);
- (l) the disposal scenario statement, dated 23rd January 2015 (REP-489);

(2) Document references are those used on the Planning Inspectorate Dogger Bank Teesside A & B Document Library: see <http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010051/0.%20Project%20Management/Dogger%20Bank%20Teesside%20A&B%20Document%20Library%20-%20Publication%20Version.pdf>.

- (m) the outline offshore archaeological written scheme of investigation, dated 27th January 2015 (REP-495);
- (n) the outline offshore maintenance plan, dated 26th January 2015 (REP-490);
- (o) the outline decommissioning statement (issue 6), dated 26th January 2015 (REP-491);
- (p) the streets and public rights of way plan, dated January 2015 (REP-514 and REP-515);
- (q) the Wilton protective provisions supporting plans, dated January 2015 (REP-505),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Protective provisions

43. Schedule 12 (protective provisions) has effect.

Arbitration

44. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.